

**U.S. District Court
District of Columbia (Washington, DC)
CIVIL DOCKET FOR CASE #: 1:18-cv-01434-APM**

WHITTAKER v. UNITED STATES DEPARTMENT OF JUSTICE

Assigned to: Judge Amit P. Mehta
Cause: 05:552 Freedom of Information Act

Date Filed: 06/18/2018

Jury Demand: None

Nature of Suit: 895 Freedom of Information Act

Jurisdiction: U.S. Government Defendant

Plaintiff

NOEL F. WHITTAKER

represented by **John Andrew Lynch, Jr.**
UNIVERSITY OF BALTIMORE
SCHOOL OF LAW
1420 N. Charles St.
Suite 1103
Baltimore, MD 21201
(301) 580-6607
Fax: (410) 837-4560
Email: jlynch@ubalt.edu
ATTORNEY TO BE NOTICED

V.

Defendant

UNITED STATES DEPARTMENT OF JUSTICE

represented by **Brian J. Field**
U.S. ATTORNEY'S OFFICE FOR THE DISTRICT OF COLUMBIA
555 Fourth Street, NW
Washington, DC 20530
(202) 252-2551
Fax: (202) 234-2806
Email: brian.field@usdoj.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

UNITED STATES OFFICE OF PERSONNEL MANAGEMENT

represented by **Brian J. Field**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
06/18/2018	<u>1</u>	COMPLAINT against UNITED STATES DEPARTMENT OF JUSTICE (Filing fee \$ 400 receipt number 0090-5539070) filed by NOEL F. WHITTAKER. (Attachments: # <u>1</u> Civil Cover Sheet, # <u>2</u> Summons)(Lynch, John) (Entered: 06/18/2018)
06/18/2018		Case Assigned to Judge Amit P. Mehta. (zmd) (Entered: 06/20/2018)
06/20/2018	<u>2</u>	NOTICE <i>Updated Civil Cover Sheet</i> by NOEL F. WHITTAKER (Lynch, John) (Entered: 06/20/2018)
06/20/2018	<u>3</u>	SUMMONS (3) Issued Electronically as to UNITED STATES DEPARTMENT OF JUSTICE, U.S. Attorney and U.S. Attorney General (Attachments: # <u>1</u> Notice and Consent) (zmd) (Entered: 06/20/2018)
07/23/2018	<u>4</u>	NOTICE of Appearance by Brian J. Field on behalf of All Defendants (Field, Brian) (Entered: 07/23/2018)

07/23/2018	<u>5</u>	Consent MOTION for Extension of Time to <i>Respond to Plaintiff's Complaint</i> by UNITED STATES DEPARTMENT OF JUSTICE (Field, Brian) (Entered: 07/23/2018)
07/23/2018		MINUTE ORDER granting Defendant's <u>5</u> Motion for Extension of Time. Defendant shall respond to Plaintiff's Complaint no later than August 27, 2018. Signed by Judge Amit P. Mehta on 07/23/2018. (lcapm3) (Entered: 07/23/2018)
07/24/2018		Set/Reset Deadlines: Answer to the Complaint due by 8/27/2018. (tg) (Entered: 07/24/2018)
08/22/2018	<u>6</u>	Consent MOTION for Extension of Time to File Answer re <u>1</u> Complaint by UNITED STATES DEPARTMENT OF JUSTICE (Field, Brian) (Entered: 08/22/2018)
08/23/2018		MINUTE ORDER granting Defendant's <u>6</u> Motion for Extension of Time. Defendant shall respond to Plaintiff's Complaint no later than September 10, 2018. Signed by Judge Amit P. Mehta on 08/28/2018. (lcapm3) (Entered: 08/23/2018)
08/23/2018		Set/Reset Deadlines: Defendant's response to Plaintiff's Complaint due by 9/10/2018. (hmc) (Entered: 08/23/2018)
09/10/2018	<u>7</u>	ANSWER to Complaint by UNITED STATES DEPARTMENT OF JUSTICE.(Field, Brian) (Entered: 09/10/2018)
09/10/2018		MINUTE ORDER. Both a Complaint and an Answer are now before the court in this FOIA case. It is hereby ordered that the parties shall meet and confer and file a Joint Status Report on or before October 1, 2018. The Joint Status Report shall include (1) the status of Plaintiff's FOIA request; (2) the anticipated number of documents responsive to Plaintiff's FOIA request; (3) the anticipated date(s) for release of the documents requested by Plaintiff; (4) whether a motion for stay is likely under <i>Open America v. Watergate Special Prosecution Force</i> , 547 F.2d 605 (D.C. Cir. 1976); and (5) whether the parties anticipate summary judgment briefing and, if so, a proposed briefing schedule. Signed by Judge Amit P. Mehta on 09/10/2018. (lcapm3) (Entered: 09/10/2018)
09/10/2018		Set/Reset Deadlines: Joint Status Report due by 10/1/2018. (zjd) (Entered: 09/12/2018)
10/01/2018	<u>8</u>	Joint STATUS REPORT by UNITED STATES DEPARTMENT OF JUSTICE. (Field, Brian) (Entered: 10/01/2018)
10/03/2018	<u>9</u>	ORDER entering the briefing schedule proposed in the parties' <u>8</u> Joint Status Report. The schedule for further proceedings in this matter is as follows: (1) Plaintiff's Motion for Leave to File an Amended Complaint is due on or before October 15, 2018; (2) Defendant's Motion for Summary Judgment is due on or before November 15, 2018; (3) Plaintiff's Opposition to Defendant's Motion and any Cross-Motion for Summary Judgment is due on or before December 31, 2018; (4) Defendant's Reply in Support of Summary Judgment and Opposition to any Cross-Motion for Summary Judgment is due on or before January 31, 2019; and (5) Plaintiff's Reply in Support of any Cross-Motion for Summary Judgment is due on or before February 28, 2019. See the attached Order for additional details. Signed by Judge Amit P. Mehta on 10/03/2018. (lcapm3) (Entered: 10/03/2018)
10/03/2018		Set/Reset Deadlines: Motion for Leave to File Amended Complaint due by 10/15/2018. Defendant's Motion for Summary Judgment due by 11/15/2018. Plaintiff's Opposition and Cross-Motion for Summary Judgment due by 12/31/2018. Defendant's Reply and Opposition due by 1/31/2019. Plaintiff's Reply due by 2/28/2019. (zjd) (Entered: 10/04/2018)
10/05/2018	<u>10</u>	MOTION to Amend/Correct <u>1</u> Complaint by NOEL F. WHITTAKER (Attachments: # <u>1</u> Proposed amended complaint)(Lynch, John) (Entered: 10/05/2018)
10/05/2018		Minute Order. It remains unclear to the court whether Defendant opposes Plaintiff's request to amend his complaint. The Status Report filed on October 1, 2018, merely states that the "[t]he Parties have agreed that Plaintiff will file a motion for leave to amend," but does not say whether Defendant consents to the amendment. Likewise, the motion to amend itself does not represent Defendant's position. Accordingly, no later than October 10, 2018, Defendant shall notify the court whether it consents to Plaintiff's request to file an amended complaint. Signed by Judge Amit P. Mehta on

		10/05/2018. (lcapm3) (Entered: 10/05/2018)
10/05/2018	<u>11</u>	NOTICE by UNITED STATES DEPARTMENT OF JUSTICE re Order,, (Field, Brian) (Entered: 10/05/2018)
10/05/2018		MINUTE ORDER granting <u>10</u> Plaintiff's Motion to Amend Complaint. Plaintiff's Amended Complaint shall now be the operative pleading in this case. Signed by Judge Amit P. Mehta on 10/05/2018. (lcapm3). (Entered: 10/05/2018)
10/09/2018	<u>12</u>	AMENDED COMPLAINT to add defendant United States Office of Personnel Management against NOEL F. WHITTAKER filed by NOEL F. WHITTAKER. (Attachments: # <u>1</u> Summons, # <u>2</u> Summons, # <u>3</u> Summons, # <u>4</u> Summons)(Lynch, John) (Entered: 10/09/2018)
10/10/2018	<u>13</u>	SUMMONS (4) Issued Electronically as to UNITED STATES OFFICE OF PERSONNEL MANAGEMENT (2 issued for U.S.O.P.M), U.S. Attorney and U.S. Attorney General (ztd) (Entered: 10/10/2018)
10/18/2018	<u>14</u>	NOTICE of Appearance by Brian J. Field on behalf of UNITED STATES OFFICE OF PERSONNEL MANAGEMENT (Field, Brian) (Entered: 10/18/2018)
10/18/2018	<u>15</u>	ANSWER to <u>12</u> Amended Complaint by UNITED STATES DEPARTMENT OF JUSTICE, UNITED STATES OFFICE OF PERSONNEL MANAGEMENT.(Field, Brian) (Entered: 10/18/2018)
11/15/2018	<u>16</u>	MOTION for Summary Judgment by UNITED STATES DEPARTMENT OF JUSTICE, UNITED STATES OFFICE OF PERSONNEL MANAGEMENT (Attachments: # <u>1</u> Memorandum in Support, # <u>2</u> Statement of Facts, # <u>3</u> Declaration Watters Decl., # <u>4</u> Declaration Hardy Decl., # <u>5</u> Text of Proposed Order)(Field, Brian) (Entered: 11/15/2018)
12/05/2018	<u>17</u>	Cross MOTION for Summary Judgment by NOEL F. WHITTAKER (Lynch, John) (Entered: 12/05/2018)
12/05/2018	<u>18</u>	Memorandum in opposition to re <u>16</u> MOTION for Summary Judgment filed by NOEL F. WHITTAKER. (See Docket Entry <u>17</u> to view document (jf) (Entered: 12/07/2018)
12/07/2018		NOTICE OF ERROR re <u>17</u> Motion for Summary Judgment; emailed to jlynch@ubalt.edu, cc'd 3 associated attorneys -- The PDF file you docketed contained errors: 1. Two-part docket entry, 2. DO NOT REFILE -- Counsel is reminded to docket all parts of their filing (zjf,) (Entered: 12/07/2018)
01/28/2019	<u>19</u>	Consent MOTION to Modify Briefing Schedule by UNITED STATES DEPARTMENT OF JUSTICE, UNITED STATES OFFICE OF PERSONNEL MANAGEMENT (Field, Brian). (Entered: 01/28/2019)
01/29/2019		MINUTE ORDER granting <u>19</u> Defendants' Consent Motion for Amendment of Briefing Schedule. The court sets the following schedule for further proceedings in this matter: Defendants' Reply in Support of Summary Judgment and Opposition to any Cross-Motion shall be filed on or before March 4, 2019. Plaintiff's Reply in Support of Summary Judgment shall be filed on or before April 1, 2019. Signed by Judge Amit P. Mehta on 01/29/2019. (lcapm3) (Entered: 01/29/2019)
01/29/2019		Set/Reset Deadlines: Defendant's Reply and Opposition due by 3/4/2019. Plaintiff's Reply due by 4/1/2019. (zjd) (Entered: 02/04/2019)
03/04/2019	<u>20</u>	REPLY to opposition to motion re <u>16</u> MOTION for Summary Judgment filed by UNITED STATES DEPARTMENT OF JUSTICE, UNITED STATES OFFICE OF PERSONNEL MANAGEMENT. (Field, Brian) (Entered: 03/04/2019)
03/25/2019	<u>21</u>	SURREPLY to opposition to motion re <u>17</u> Cross MOTION for Summary Judgment filed by NOEL F. WHITTAKER. (Lynch, John) Modified text to read surreply on 4/1/2019 (ztd). (Entered: 03/25/2019)
03/25/2019	<u>22</u>	Memorandum in opposition to re <u>16</u> MOTION for Summary Judgment filed by NOEL F. WHITTAKER; (See docket entry no. <u>21</u> to view.) (ztd) (Entered: 03/25/2019)
06/21/2019	<u>23</u>	MEMORANDUM OPINION AND ORDER denying the parties' <u>16</u> and <u>17</u> Motions for Summary Judgment. See the attached Memorandum Opinion for additional details.

		The parties shall meet and confer and propose a briefing schedule to the court on or before July 1, 2019. Signed by Judge Amit P. Mehta on 06/21/2019. (lcapm3) (Entered: 06/21/2019)
06/21/2019		Set/Reset Deadlines: Proposed Briefing Schedule due by 7/1/2019. (zjd) (Entered: 06/25/2019)
06/28/2019	<u>24</u>	Joint STATUS REPORT by UNITED STATES DEPARTMENT OF JUSTICE, UNITED STATES OFFICE OF PERSONNEL MANAGEMENT. (Field, Brian) (Entered: 06/28/2019)
07/01/2019		MINUTE ORDER. Having considered <u>24</u> the parties' Joint Motion for Scheduling Order, the court sets the following schedule for further proceedings in this matter: Defendants' Renewed Motion for Summary Judgment shall be filed on or before September 20, 2019; Plaintiff's Cross-Motion and Opposition shall be filed on or before November 4, 2019; Defendants' Reply and Opposition shall be filed on or before December 4, 2019; and Plaintiff's Reply shall be filed on or before December 31, 2019. Signed by Judge Amit P. Mehta on 07/01/2019. (lcapm3) (Entered: 07/01/2019)
07/01/2019		Set/Reset Deadlines: Defendants' Renewed Motion for Summary Judgment due by 9/20/2019. Plaintiff's Cross-Motion and Opposition due by 11/4/2019. Defendants' Reply and Opposition due by 12/4/2019. Plaintiff's Reply due by 12/31/2019.(zjd) (Entered: 07/01/2019)